

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

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In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹
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PROMESA

Title III

No. 17 BK 3283-LTS

Re: 1253

(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO

as representative of

THE PUERTO RICO ELECTRIC POWER
AUTHORITY

Debtor.
-----X

PROMESA

Title III

Case No. 17-4780 (LTS)

This Application relates only to
PREPA.

**URGENT MOTION OF THE PUERTO RICO FISCAL AGENCY AND
FINANCIAL ADVISORY AUTHORITY REGARDING THE SCHEDULING OF
DEADLINES AND BRIEFING IN CONNECTION WITH
URGENT MOTIONS IN LIMINE REGARDING 9019 MOTION**

To the Honorable United States District Judge Laura Taylor Swain:

The Financial Oversight and Management Board for Puerto Rico (“FOMB”), in its capacity
as representative of the Puerto Rico Electric Power Authority (“PREPA”) pursuant to Section

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (collectively the “Title III Cases”) (Last Four Digits of Federal Tax ID: 3747). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

315(b) of PROMESA, and the Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”), and PREPA (the “Government Parties”) have sought relief in the form of (i) the *Urgent Motion in Limine to Exclude Testimony Offered by Union de Trabajadores de la Industria Electrica y Riego (UTIER), Sistema de Retiro de los Empleados de la Autoridad de Energia Electrica (SREAEE), and Windmar Renewable Energy* [ECF No. 1301]; and (ii) the *Urgent Motion in Limine to Exclude Testimony Offered by Instituto de Competitividad y Sostenibilidad Economica de Puerto Rico, Centro Unido de Detallistas Camara de Mercadeo, Industria y Distribucion de Alimentos, Asociación de Contratistas y Consultores de Energía Renovable de Puerto Rico, Puerto Rico Manufacturers Association, Comité Diálogo Ambiental, Inc., El Puente de Williamsburg, Inc., Enlace de Acción Climática, Comité Yabucoeño Pro-Calidad de Vida, Inc., Alianza Comunitaria, Ambientalista del Sureste, Inc., Sierra Club Puerto Rico, Inc., Mayagüezanos por la Salud y el Ambiente, Inc., Coalición de Organizaciones Anti Incineración, Inc., and Amigos del Río Guaynabo, Inc., and SOMOS Inc.* [ECF No. 1300] (the “Motions in Limine”) and, to that end, hereby respectfully submit this motion (the “Urgent Motion”) seeking entry of an order, substantially in the form of **Exhibit A** (the “Proposed Order”), regarding the scheduling of deadlines and briefing in connection with the Motions in Limine. In support of this Urgent Motion, FOMB and AAFAF state as follows:

BACKGROUND

1. On May 10, 2019, PREPA and AAFAF filed a *Joint Motion Pursuant to Bankruptcy Code Sections 362, 502, 922 and 928, and Bankruptcy Rules 3012(A)(1) and 9019 for Order Approving Settlements Embodied in the Restructuring Support Agreement and Tolling Certain Limitations Periods* (the “Rule 9019 Motion”). [ECF No. 1235]

2. Through the Rule 9019 Motion, the Government Parties sought the approval of a settlement embodied in the Definitive Restructuring Support Agreement dated as of May 3, 2019 (as may be amended, the “RSA” or “Definitive RSA”) by and among the parties particularly described in the Rule 9019 Motion.

3. The Court has entered a scheduling order under which (among other things) preliminary witness lists were due May 30, 2019; expert disclosures were due June 5, 2019; a pretrial conference is to be held during the June 12, 2019 omnibus hearing; fact depositions are to begin on June 12, 2019 and conclude by June 28, 2019; expert depositions are to begin on June 19, 2019 and conclude by July 16, 2019; and the Rule 9019 Motion is to be heard at the July 24 omnibus hearing.

4. Between May 30, 2019 and June 5, 2019 an assortment of 26 groups and entities served witness lists seeking to offer testimony from a total of 48 witnesses at the July 24, 2019 hearing.

5. In turn, through the Motions in Limine, the Government Parties are seeking to exclude lay and expert witness testimony from 15 witnesses disclosed in witness disclosures received from certain labor unions, contractors and not-for-profit advocacy groups.

6. Accordingly, the Government Parties are hereby seeking emergency relief through this Urgent Motion because the depositions are currently set to begin on June 12, 2019 pursuant to the Scheduling Order in Docket No. 1253. [ECF No. 1253, p. 3] If the Motions in Limine are not briefed by, and heard during, the June 12 omnibus hearing, significant resources will need to be spent on 15 depositions of witnesses who should be excluded from testifying at the July 24 hearing because they either lack standing to oppose the Rule 9019 Motion, intend to offer testimony that is irrelevant to the Rule 9019 standard, or both, as described in the Motions in Limine.

7. The Government Parties bring this Urgent Motion now to narrow discovery disputes prior to the Rule 9019 Motion hearing , to streamline the July 24 hearing, and to conserve the Court's and the debtor's time and resources, for the reasons detailed in such Motion in Limine.

8. To facilitate the prompt resolution of the pending Motions in Limine and in furtherance of the resolution of the Rule 9019 Motion, the Government Parties hereby respectfully proposes the following deadlines for the filing of pleadings in connection therewith:

- a. **Tuesday, June 11, 2019 at 4:00 p.m.:** Deadline by which parties-in-interest must file oppositions to the Motions in Limine.
- b. **Wednesday, June 12, 2019 at 8:00 a.m.:** Deadline for AAFAF to reply to any oppositions to the Motions in Limine.
- c. **Wednesday, June 12, 2019:** Hearing on the Motions in Limine.

9. The Government Parties' counsel hereby certify that they have made reasonable, good-faith communications with counsel for (i) the "Unions": UTIER, SREAEE; (ii) Windmar Renewable Energy; (iii) the "Energy Nonprofits": Instituto de Competitividad y Sostenibilidad Economica de Puerto Rico, Centro Unido de Detallistas Camara de Mercadeo, Industria y Distribucion de Alimentos, Asociación de Contratistas y Consultores de Energía Renovable de Puerto Rico, Puerto Rico Manufacturers Association; (iv) the "Environmental Nonprofits": Comité Diálogo Ambiental, Inc., El Puente de Williamsburg, Inc., Enlace de Acción Climática, Comité Yabucoño Pro-Calidad de Vida, Inc., Alianza Comunitaria, Ambientalista del Sureste, Inc., Sierra Club Puerto Rico, Inc., Mayagüezanos por la Salud y el Ambiente, Inc., Coalición de Organizaciones Anti Incineración, Inc., and Amigos del Río Guaynabo, Inc., and (v) SOMOS, Inc. in an effort to resolve or narrow the issues that are being brought to the Court prior to the filing of this Urgent Motion. Counsel for the Unions, Windmar, the Energy Nonprofits, and the Environmental Nonprofits has informed the Government Parties of their intent to oppose the

Limine Motions but have not indicated opposition to having the Limine Motions heard at the June 12 Omnibus hearing. The Government Parties did not receive a response from Sonos, Inc.

WHEREFORE, AAFAF respectfully requests that this Court enter an order substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein and such other and further relief as this Court deems appropriate.

**Certification of Compliance with
Ninth Amended Case Management Procedures**

Pursuant to ¶ I.H of the Ninth Amended Case Management AAFAF hereby certifies that it has (a) carefully examined the matter and concluded that there is a true need for an urgent hearing; (b) not created the urgency through any lack of due diligence; (c) made a bona fide effort to resolve the matter without a hearing; (d) made reasonable, good-faith communications in an effort to resolve or narrow the issues that are being brought to the Court; and (e) contacted counsel for the Unions, Windmar Renewable Energy, the Energy Nonprofits, the Environmental Nonprofits, and SOMOS. Counsel for the Unions, Windmar, the Energy Nonprofits, and the Environmental Nonprofits has informed the Government Parties of their intent to oppose the Limine Motions but have not indicated opposition to having the Limine Motions heard at the June 12 Omnibus hearing. The Government Parties did not receive a response from SOMOS.

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Dated: June 7, 2019
San Juan, Puerto Rico

Respectfully submitted,

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